

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 1894, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 3, after "(a)" insert "**This section does not apply to an**
- 2 **annexation under section 5.1 of this chapter.**".
- 3 Page 1, line 3, before "A" begin a new paragraph and insert:
- 4 "**(b)**".
- 5 Page 1, line 9, reset in roman "subsection".
- 6 Page 1, line 9, delete "subsections".
- 7 Page 1, line 9, strike "(c)".
- 8 Page 1, line 9, delete "and".
- 9 Page 1, line 14, strike "(b)" and insert "**(c)**".
- 10 Page 1, line 16, strike "(a)." and insert "**(b)**".
- 11 Page 1, line 17, strike "(c)" and insert "**(d)**".
- 12 Page 2, delete lines 7 through 13.
- 13 Page 2, line 18, delete "2.1(d)" and insert "**5.1**".
- 14 Page 3, between lines 10 and 11, begin a new paragraph and insert:
- 15 "SECTION 3. IC 36-4-3-3.1, AS ADDED BY P.L.217-1999,
- 16 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 17 JULY 1, 2001]: Sec. 3.1. (a) This section does not apply to an
- 18 annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this
- 19 chapter.

(b) A municipality shall develop and adopt a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

(c) Except as provided in subsection (d), the municipality shall establish and adopt the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

(d) In an annexation under section 5 **or 5.1** of this chapter, the municipality shall establish and adopt the written fiscal plan before adopting the annexation ordinance."

Page 3, between lines 27 and 28, begin a new line block indented and insert:

"(5) A town having a population of more than five thousand (5,000) but less than six thousand (6,000) located in a county having a population of more than one hundred eight thousand (108,000) but less than one hundred eight thousand nine hundred fifty (108,950)."

Page 4, line 22, delete "If all property owners in the territory sought to be annexed" and insert **"The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:**

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

Page 4, delete lines 23 through 25.

Page 4, line 26, delete "If" and insert **"Except as provided in section 5.1 of this chapter, if"**.

Page 4, line 26, reset in roman "pass".

Page 4, line 26, delete "introduce".

Page 4, line 27, strike "sixty (60)" and insert **"one hundred fifty (150)"**.

Page 5, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 6. IC 36-4-3-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.1. (a) This section applies to an annexation in which owners of land located outside but contiguous to a municipality file a petition with the legislative body of the municipality:

(1) requesting an ordinance annexing the area described in the petition; and

1 (2) signed by one hundred percent (100%) of the landowners
2 that reside within the territory that is proposed to be annexed.

3 (b) Sections 2.1 and 2.2 of this chapter do not apply to an
4 annexation under this section.

5 (c) The petition circulated by the landowners must include on
6 each page where signatures are affixed a heading that is
7 substantially similar to the following:

8 "PETITION FOR ANNEXATION INTO THE (insert whether
9 city or town) OF (insert name of city or town).".

10 (d) The municipality may:

11 (1) adopt an annexation ordinance annexing the territory; and

12 (2) adopt a fiscal plan and establish a definite policy by
13 resolution of the legislative body;

14 after the legislative body has held a public hearing on the proposed
15 annexation.

16 (e) The municipality may introduce and hold the public hearing
17 on the annexation ordinance not later than thirty (30) days after
18 the petition is filed with the legislative body. Notice of the public
19 hearing may be published one (1) time in accordance with IC 5-3-1
20 at least twenty (20) days before the hearing. All interested parties
21 must have the opportunity to testify at the hearing as to the
22 proposed annexation.

23 (f) The municipality may adopt the annexation ordinance not
24 earlier than fourteen (14) days after the public hearing under
25 subsection (e).

26 (g) If the municipality does not adopt an annexation ordinance
27 within sixty (60) days after the landowners file the petition with the
28 legislative body, the landowners may file a duplicate petition with
29 the circuit or superior court of a county in which the territory is
30 located. The court shall determine whether the annexation shall
31 take place as set forth in section 5 of this chapter.

32 (h) A remonstrance under section 11 of this chapter may not be
33 filed. However, an appeal under section 15.5 of this chapter may be
34 filed.

35 (i) In the absence of an appeal under section 15.5 of this chapter,
36 an annexation ordinance adopted under this section takes effect not
37 less than thirty (30) days after the adoption of the ordinance and
38 upon the filing and recording of the ordinance under section 22 of

1 **this chapter."**

2 Page 5, line 24, strike "or".

3 Page 5, line 24, after "5" insert ", **or 5.1**".

4 Page 5, line 31, strike "or".

5 Page 5, line 31, after "5" insert ", **or 5.1**".

6 Page 6, line 23, delete "5" and insert "**5.1**".

7 Page 6, between lines 29 and 30, begin a new paragraph and insert:

8 "SECTION 8. IC 36-4-3-8, AS AMENDED BY P.L.217-1999,
9 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2001]: Sec. 8. (a) This section does not apply to an ordinance
11 adopted under section 5 **or 5.1** of this chapter.

12 (b) An ordinance adopted under section 3 or 4 of this chapter must
13 include terms and conditions fairly calculated to make the annexation
14 equitable to the property owners and residents of the municipality and
15 the annexed territory. The terms and conditions may include:

- 16 (1) postponing the effective date of the annexation for not more
17 than three (3) years; and
18 (2) establishing equitable provisions for the future management
19 and improvement of the annexed territory and for the rendering of
20 needed services.

21 (c) This subsection applies to territory sought to be annexed that
22 meets all of the following requirements:

- 23 (1) The resident population density of the territory is at least three
24 (3) persons per acre.
25 (2) The territory is subdivided or is parceled through separate
26 ownerships into lots or parcels such that at least sixty percent
27 (60%) of the total number of lots and parcels are not more than
28 one (1) acre.

29 This subsection does not apply to an ordinance annexing territory
30 described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The
31 ordinance must include terms and conditions impounding in a special
32 fund all of the municipal property taxes imposed on the annexed
33 territory after the annexation takes effect that are not used to meet the
34 basic services described in section 13(d)(4) and 13(d)(5) of this chapter
35 for a period of at least three (3) years. The impounded property taxes
36 must be used to provide additional services that were not specified in
37 the plan of annexation. The impounded property taxes in the fund shall
38 be expended as set forth in this section, not later than five (5) years

1 after the annexation becomes effective."

2 Page 6, line 32, delete "5(b)" and insert "**5.1(h)**".

3 Page 7, line 26, delete "5" and insert "**5.1**".

4 Page 7, between lines 28 and 29, begin a new paragraph and insert:

5 "SECTION 10. IC 36-4-3-15, AS AMENDED BY P.L.248-1999,
6 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2001]: Sec. 15. (a) The court's judgment under section 12 or
8 15.5 of this chapter must specify the annexation ordinance on which
9 the remonstrance is based. The clerk of the court shall deliver a
10 certified copy of the judgment to the clerk of the municipality. The
11 clerk of the municipality shall:

12 (1) record the judgment in the clerk's ordinance record; and

13 (2) make a cross-reference to the record of the judgment on the
14 margin of the record of the annexation ordinance.

15 (b) If a judgment under section 12 or 15.5 of this chapter is adverse
16 to annexation, the municipality may not make further attempts to annex
17 the territory **or any part of the territory** during the four (4) years after
18 the later of:

19 (1) the judgment of the circuit or superior court; or

20 (2) the date of the final disposition of all appeals to a higher court;
21 unless the annexation is petitioned for under section 5 **or 5.1** of this
22 chapter.

23 **(c) A municipality may not make further attempts to annex the**
24 **territory or any part of the territory during the four (4) years after**
25 **the date the municipality repeals an annexation ordinance if:**

26 **(1) a remonstrance petition is filed within the time set forth in**
27 **section 11 of this chapter; and**

28 **(2) the court determines that the petition has the necessary**
29 **signatures as set forth in section 11 of this chapter;**

30 **unless the annexation is petitioned for under section 5 or 5.1 of this**
31 **chapter. This subsection does not affect an annexation ordinance**
32 **that is amended in order to correct a typographical or clerical**
33 **error.**

34 **(d) Subsection (c) does not apply to a municipality that amends**
35 **an annexation ordinance to correct a clerical or a typographical**
36 **error. A municipality does not initiate a new annexation by**
37 **correcting a typographical or clerical error in the annexation**
38 **ordinance.**

- 1 **(e) Subsection (c) applies to any further attempts to annex the**
 2 **territory or any part of the territory by the municipality if the**
 3 **municipality repeals the annexation ordinance:**
 4 **(1) after the municipality has corrected the ordinance; and**
 5 **(2) for a reason other than to correct another clerical or**
 6 **typographical error.**
 7 ~~(e)~~ **(f)** If a judgment under section 12 or 15.5 of this chapter orders
 8 the annexation to take place, the annexation is effective when the clerk
 9 of the municipality complies with the filing requirement of section
 10 22(a) of this chapter."
 11 Page 7, line 40, delete "5" and insert "**5.1**".
 12 Page 8, delete lines 32 through 42.
 13 Delete page 9.
 14 Renumber all SECTIONS consecutively.
 (Reference is to HB 1894 as reprinted March 6, 2001.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

Merritt

Chairperson